

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA §
§
VS. § 4:12-cr-503
§ (Hon. Lee H. Rosenthal)
JASON DANIEL GANDY §

DEFENDANT'S PROPOSED VOIR DIRE

COMES NOW JASON DANIEL GANDY, DEFENDANT, through counsel Sean Buckley, and files this his Proposed Voir Dire, respectfully requesting permission to inquire of the Jury Panel the following:

1. Bias and Prejudice
 - a. This case involves members of the gay community, including Mr. Gandy;
 - i. Does anyone have strong feelings about the morality of being gay, or that homosexuality is a sin?
 - ii. If so, could those feelings impact your ability to be fair to Mr. Gandy in this case?
 - iii. Does anyone feel that homosexuals deserve to be punished? Or that homosexual acts should be a crime?
 - b. Does anyone feel that young people who are gay are probably gay because they were victimized in some way?
2. The events of this case happened prior to the “Me Too” movement. Nevertheless, you may find the “Me Too” movement relevant to your evaluation of the evidence in this case.
 - a. How do you feel about the “Me Too” movement?
 - b. How has the “Me Too” movement positively impacted our community?

- c. Do you feel that the “Me Too” movement has had negative consequences, along with the positives? How?
- 3. Acts vs. Mere Thoughts, Desires and Sexual Preferences
 - a. A person cannot be punished, or convicted of a crime in our country, for his thoughts and desires alone. And a person cannot be convicted unless his specific acts violate the law. The prosecution must prove its case against Mr. Gandy beyond a reasonable doubt, and you must give Mr. Gandy the benefit of that doubt at all times throughout this case.
 - i. If you learned that Mr. Gandy had thoughts and desires that were offensive to you, could that affect your ability to be fair to him in this case and give him the full benefit of the doubt?
 - ii. What if you found Mr. Gandy’s thoughts and desires were not only offensive, but disgusting and appalling? Could that affect your willingness to be fair to him and give him the full benefit of the doubt in this case?
 - iii. Could those feelings lead you to lower the prosecution’s burden of proof, and give them an easier shot at convicting Mr. Gandy?
- 4. Commitment to follow the Court’s Instructions
 - a. Throughout this case, the judge will give you instructions about how to consider the evidence and apply the law. And you will be required to take an oath to follow the judge’s instructions.
 - i. If the judge’s instructions go against your personal opinions, can you guarantee you will still fulfill your oath to follow the judge’s instructions exactly?
 - ii. What if following the judge’s instructions would produce a result that goes against your strongest personal beliefs? Can you still guarantee to fulfill your oath to follow the judge’s instructions?
 - iii. What if following the judge’s instructions would produce a result that goes against your strongest religious beliefs? Can you still guarantee to fulfill your oath to follow the judge’s instructions?

5. Prosecutions's Burden of Proof and Defendant's Right Not to Testify

- a. In our country, Mr. Gandy cannot be convicted of a crime unless the prosecution proves its case against him beyond a reasonable doubt. Mr. Gandy has no obligation to present any evidence in his defense, unless he chooses to do so.
 - i. Does anyone believe that a defendant should always present some evidence if he is not guilty?
 - ii. If and when the prosecution fails to prove beyond a reasonable doubt that someone committed a crime, does that make the person "innocent?" What's the difference between these two concepts?
- b. Mr. Gandy has the absolute right to decide not to testify in this case. There are many reasons why a defendant might choose not to testify.
 - i. If you were accused of a crime, would you want to testify in your own defense?
 - ii. If Mr. Gandy chooses not to testify in this case, would you be tempted to hold that against him, and view it as evidence of guilt in any way?
 - iii. Can you guarantee that if Mr. Gandy chooses not to testify in his own defense, you will be able to follow your oath and not consider his decision for any purpose in this case?

6. Ties to Law Enforcement / Federal Government

- a. Does anyone have family or friends who are in law enforcement, or who are employed by the federal government?
 - i. Could this affect your willingness to hold the prosecution to its full burden of proof in this case?
- b. Would you be inclined to give greater weight or trust to a witness who is with law enforcement, as opposed to another type of witness?

7. Victims of Sexual Offenses / Sex Trafficking [Invite for private discussion at the bench]

- a. Does anyone know someone who is the victim of a sex crime, or sex trafficking?

b. Have any of you been victimized in the past in any situation that might relate to this subject matter?

Respectfully submitted,

/s/ Sean Buckley
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Certificate of Service

I certify that I provided a copy of Defendant's Proposed Jury Instructions to Assistant United States Attorney Sherri Zack and all parties via the ECF system on this the 9th day of July, 2018.

/s/ Sean Buckley
Sean Buckley